

Meeting of 2000-1-11 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JANUARY 11, 2000 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBERS

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
 Lt. Col. Jeff Ewing, Fort Sill Liaison

The meeting was called to order at 6:00 p.m. by Mayor Powell. Invocation was given by Dr. Randy Robertson, Calvary Baptist Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
 Richard Williams, Ward Two
 Glenn Devine, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Charles Beller, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None.

PRESENTATION BY LAWTON-FORT SILL TEEN ADVISORY COUNCIL

Dr. Linda Dzialo, Lawton Public Schools, explained the initial effort to establish the Lawton-Fort Sill Teen Advisory Council and the process used to select Council members. The purposes of the Council are to have teen voices heard, provide an avenue for the community to find out what young people think about issues, provide leadership opportunities, address concerns of the community and build a sense of cooperation between all schools. Teen Council Officers are Carlton Saffa, President; Jasmin Ausley, Chris Fitzgerald, and Melissa Torbert.

Carlton Saffa, Lawton-Fort Sill Teen Advisory Council President, introduced himself and further explained the goals of the Council. Eighteen members of the Teen Council then individually introduced themselves, gave their parents' name, school they attend, and reasons why they felt it important to be a part of the Teen Council.

Dzialo said she appreciated the support the City had given to this program, and in particular the time and effort spent by Mayor Powell, which she explained. She expressed appreciation for the passage of the CIP sales tax which provided funding for Lawton Public Schools.

Mayor Powell said he attended a Generation Innovation meeting where a student expressed that elected leaders did not care about students. Mayor Powell said he felt the Teen Council approach would help show students that we do care about them.

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO DAVID HALE

Donna Richey, Mayor's Commission on the Status of Women, introduced David Hale as Citizen of the Month. Mr. Hale is the editorial page editor for the Lawton Constitution. He has been a member of the Lawton Noon Lions Club for 20 years and has served as the Chairman of the Club and of the Carnival Committee which raised over \$20,000 for eyeglasses, LCCI Coop, Armed Services YMCA, Cameron scholarships and the Greiner School for the Handicapped. The Noon Lions Club became a partner in the Boulevard of Lights and by serving hot chocolate and cookies, they raised \$1,000 to support the program. Hale was instrumental in helping the Battered Womens Shelter build its new facility in raising \$50,000 through the Lions Club and thereby receiving a \$75,000 match from the McMahon Foundation. Hale is also a member of the Elks Lodge, which raises funds for community projects, as well as helping with the United Way Downtown Chow Down and providing relief to Oklahoma City tornado victims. He supports activities at Cameron University, and is a member of the Alumni Association Board of Directors. Hale has a vivid interest in computers and assisted in raising funds to provide four

computers to the Salvation Army Boys and Girls Club.

Mayor Powell presented awards and commendations from Congressman J.C. Watts, the Oklahoma House of Representatives, the Oklahoma State Senate, and the City of Lawton.

Hale thanked the Commission for the award and his employers, Steve and Don Bentley, for allowing him the opportunity to be the editorial page editor. He expressed appreciation to members of the Lawton Noon Lions Club and the Elks Lodge who were present in his behalf and participated in nominating him. Hale thanked Irene Allen and her daughter for the support they had shown to him for the past five years. He said he worked as a reporter for the Altus Times Democrat many years ago and the newspaper owner was also the Mayor of Altus and he instilled in his staff that each one should leave the community better than they found it, and that he had tried to live by that philosophy.

Mayor Powell presented a Certificate of Honor to Mr. Carlos Nazario for his life saving efforts in a recent fire at the Ambassador Diplomat Apartments. Mr. Daniel Moore arrived later in the meeting and was presented a similar certificate for his efforts.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETINGS OF DECEMBER 7, 9, 14 AND 22, 1999.

MOVED by Smith, SECOND by Haywood, for approval of the Minutes. AYE: Williams, Devine, Purcell, *Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

*Shanklin said he would abstain from voting on the Minutes of December 22 as he was not present, and would vote for approval of the other minutes.

AUDIENCE PARTICIPATION: None.

UNFINISHED BUSINESS:

1. Consider rejecting bids for Backhoe/Loader and authorize staff to rebid. Exhibits: Abstract.

Jerry Ihler, Public Works Director, said this item was considered at the last meeting. Staff recommendation is to reject the bids and readvertise because the addendum to the bid specifications was quite restrictive as to which vendors could supply the equipment. He said some members were concerned that the equipment would not be used an adequate amount of time at the lakes to warrant a new backhoe being assigned to that division. Ihler proposed the 1997 backhoe in the Street Division inventory be modified and transferred to the Lakes Division and that the new backhoe be assigned to Streets.

MOVED by Shanklin, SECOND by Haywood, to reject the bids and readvertise. AYE: Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

2. Hold a public hearing and consider authorizing acceptance of the 1999 Department of Justice Block Grant. Exhibits: Grant Application Request.

Deputy Police Chief Harvey Roof said they had completed the necessary requirements for the grant other than consideration of this item. He said this is for a \$250,000 grant from the federal grant with a match of \$27,798 which is set aside in the current budget.

Purcell said discussion was held previously about ordering cars that have cameras already installed, or if it would be cheaper to install them later. He asked if there was a reason cameras were not included in the grant request. Roof said he thought Deputy Chief Thorne may have budgeted for new cars to be equipped with cameras and radars but he would check.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Smith, SECOND by Warren, to authorize acceptance of the grant and authorize the Mayor to sign the necessary forms. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams, Devine. NAY: None. MOTION CARRIED.

Smith commended the Police Department on their aggressive pursuit of grant funding and encouraged others to do the same to supplement the budget.

3. Receive a presentation from the Employee Advisory Committee concerning retroactivity of wage increases and, if appropriate, take action on requested changes. Exhibits: None.

Baker said the EAC Chairman requested the item and a representative would like to discuss the new pay plan that was given to general employees that went into effect December 13, 1999.

Fred Leatherwood, EAC Labor & Trades #4, said employees were present to talk about the retroactive issue of the recent general employee pay scale. He said when the pay plan was originally presented to the general employees and EAC, management pitched the pay plan and said there was no money for retroactive pay so general employees accepted that on good faith. Leatherwood said in the last few months, the Fire Department's pay proposal and the City's pay proposal to the Fire Department both included retroactive pay to July 1, 1999; and recently the Police received retroactive pay of 3% July 1, 1999, with another 3% pay increase in March. He said the EAC is the voice of the general employees and the statements made will not be personal opinions of the members speaking but what they have been told by the majority of the general employees. Leatherwood said he had met with those he represents on several occasions and they wanted to find out why they were told the pay would not be retroactive because there was no money, and since Police got retroactive pay, and regardless of which plan will be accepted by the Fire, there will be retroactive pay. He said the general employees are asking what is fair and they have been told on several occasions by previous City Managers and previous EAC representatives that City employees are all equal and no one set group is above the other when it comes to pay raises and pay scales, but the general employees feel they have been somehow cheated since apparently there was money for a retroactive pay increase. Leatherwood said some of the comments were that general employee pay was not retroactive so there would be money for Police and Fire pay raise.

Leatherwood said he regretted that they had to come before Council. He said on December 13, the EAC held a special meeting and requested the City Manager and/or Assistant City Manager to attend the meeting to explain to them, in hopes that they could go out to their people and say this is what really happened, but the City Manager declined to attend the meeting so they had no choice but to come before the Council and express the voice of the employees. He said many employees are upset because it appeared all other employee groups were receiving retroactive pay increases except general employees.

John Thomas, EAC Member, said they were not present to complain about what the Fire or Police receive; they are all City employees and pay taxes which helps to pay salaries. He said they take the feedback from the City Manager to the employees and then two weeks later it is quoted in the newspaper that the City Manager is frustrated and bewildered by the simple fact that he went to bat for the general employees. Thomas said that may be so, but the City Manager told them there was no money for this to be retroactive so it was a dead issue and everyone let it go; then they read in the newspaper that the Police and Fire were receiving retroactive pay to July 1 whereas general employees must wait six months. Thomas said the City Manager was saying general employees would receive 5%, but it was a 2-1/2% increase and the other 2-1/2% was a step increase, which are two different issues. The step increase is due solely to job performance and it is not a guaranteed increase when your evaluation comes up. Thomas said the only thing guaranteed from the City was 2-1/2% on December 13.

Thomas said the City Manager also said general employees were not appreciative of the 2-1/2%. He said everyone was happy about an increase and appreciated it, but that increase was not retroactive and it was separating general, fire and police employees. He said he could not answer the questions his employees had raised so he asked the City Manager to talk with them himself. Thomas said the general employees are not disgruntled about 2-1/2%; they are not ecstatic about it but are pleased, but if one organization gets a 2-1/2% retroactive increase, the rest should have that also and that was his only complaint.

Ransom Crisp, EAC Member, said they did not feel they would be successful in receiving the retroactive pay because it would be too much money. He suggested an alternative of allowing another 2-1/2% increase in March, instead of having it retroactive to July 1.

Baker said if the general employees feel he lied to them, he regretted that. He said a new pay plan is a very complicated issue and he spent four months getting it prepared for Council consideration. Baker said he had been with the City for 25 years and spent 18 of those years in Public Works and was an advocate for the general employees during that time, competing every year for budgeted funds against the other departments, and as Public Works Director, he felt the Police and Fire got too much and the general employees did not get enough. He said when he became City Manager he thought he might have an opportunity to do something for the general employees, not at the expense of Police and Fire, but he knew that general employees have not gotten a fair shake in the past. Baker said during this year's budget consideration, he asked that Council include \$400,000 for general employee pay adjustments and that equated to a 3% raise retroactive to July 1. At the same time, a consultant did a study looking at positions and presented a pay plan which would correct a lot of problems and inequities that have been in place for years in the City. There has been difficulties in recruiting and retaining a lot of different classifications and that problem needed to be addressed, and a straight 3% would not have done that. Baker said he recommended the \$400,000 be used to fund the new pay plan which was to be effective December 13 because that was the only way to back into it with the money that was available. He said when a salary increase is given, all of the roll ups also go up and it represents about 20%.

Baker said he felt the Council did one of the best things that ever happened for the general employees and the comparisons being made are not equal; the increase the Police received was 3% retroactive to July 1 but the general employees got a new pay plan that would benefit them for 13 years and many, many employees benefitted greatly by this pay plan; some did not benefit much, others benefitted greatly and got a \$4,000 or \$5,000 raise this year. He said most employees, although not all, were very happy with the new pay plan.

Baker said a statement was made that he had said general employees would get 5% plus the 2-1/2% merit increase and that he had never said that; he said general employees would get a minimum of 5%; 2-1/2% minimum going into the new

pay plan and then 2-1/2% step increase either under the old pay plan or the new pay plan, which is a minimum of 5%. He said employees may not realize much this year but would be eligible for a 2-1/2% step increase next year, and many employees in the higher steps went back to A and B steps and those employees would get additional raises; if you went to A step, within six months, you will be going to B step; if you went to B, in six months, you will be going to C step. Baker said he felt the Council was very generous with the general employees in his opinion and it is a good pay plan causing Lawton to be competitive in a lot of classifications that we were not previously. The salary survey showed that a lot of the labor and trade positions were being paid very fairly and adequately compared to other cities and in some cases, we were paying too much but those salaries were not lowered, in fact, Council wanted to make sure that every employee got something this year so there was a lump sum payment at the end of December to make sure that everybody was going to get the minimum 5%. Baker said it would cost \$250,000 to make this retroactive and we do not have that money. He said perhaps he should have met with the EAC when he was asked, but he had discussed the pay plan so many times with so many employees that he was tired of discussing it. Mayor Powell called for order. Baker said he felt the employees had the right to present their request to Council and it was Council's decision to make but that he did not recommend it.

Purcell said for three years he had worked for City staff to come up with a pay plan for general employees because he felt many were behind what they should be paid. He said \$400,000 was included in the budget to give what equated to a 3% pay raise back to July 1 for all general employees; that same \$400,000 is being paid to general employees and hopefully most will benefit over the next 10-12 years.

Shanklin said he supported the general employees and would support them bringing a union question before Council because he knew they had been short changed for the 15 years he had been here. He said he did not want to hire someone to tell us what to pay employees and in his opinion, that created as many problems as it corrected. Shanklin said he did not like some of the wage increases that were given and that some of the working people did not get what he thought they should have, but that he was not in the hiring and firing. He said he did not hear any complaints from any employees saying they felt they were being short changed, or anyone could have challenged it or at least talked about it. Shanklin said they knew there were problems with the Police and Fire, and there still is with one, but that he had to believe that most of the general employees were satisfied with the 13 year program. He said he thought some should have received more and that for some he surely did not like the large increases and their budgets almost doubling in ten years. Shanklin said he knew that the work done by general employees was hard, being in holes and fixing water and sewer lines, but could also tell them that they were paid well in relationship to the private sector and in many areas we are overpaid as to what you can make in the private sector in Lawton, Oklahoma.

Beller said the bone of contention seemed to be that if we give one group, who has a union contract, retroactive pay, and anticipate giving another group, who has a union contract, retroactive pay, then these folks deserve a retroactive pay increase. He read the last paragraph of a communication from the City Manager from last August: "Employees of any organization are its most valuable resource. Happy, well motivated employees are the key ingredient to the City of Lawton's success. The vast majority of our employees are hard working, dedicated and loyal. They are most deserving of our thanks and appreciation. They are most deserving of a pay raise to acknowledge the contributions and confirm their worth, and you, as the governing body, have the opportunity to reward these employees of this corporation for their dedication." Beller said we have the opportunity to reward these people for what they are doing, have done and will do. He said the next budget will not need to fund a 27th pay period so it seemed if we could find money for other things, projects and activities, that we could find the money to pay these folks a retroactive pay increase to July 1.

MOVED by Beller, SECOND by Devine, to approve the retroactive pay increase to July 1 (first pay period).

Shanklin asked Beller if he was saying we have the money. Beller said he thought so and we were going to find money for other projects, such as the public bus service. Mayor Powell asked if it would be retroactive to July 1 or to the first pay period in July. Beller said the first pay period in July.

Warren asked if we would be granting the retroactive pay increases but taking away the new pay plan. Beller said that was not what he was saying at all. Warren said he thought we were trying to make it equitable with Police. Beller said the Police have a recognized union and actions are retroactive to the beginning of the contract period, and the same thing should apply to general employees. Warren said the pay plan could have been altered to allow it to be effective July 1 by changing steps or something and he did not know how you could compare a new pay plan with new steps to Fire or Police who we have either agreed with or made an offer to as far as providing an increase only without a new pay plan.

Williams asked if it was retroactive to the first pay period in July that it would cost \$250,000. Baker said yes. Williams said if Council knew the revenues would have been available, it would probably have made it retroactive when it was passed. He said he would support it and felt the City Manager could find the money. Williams said it sends a message to a segment of the employees that two of the three groups are getting a retroactive increase and the other is not. He said he felt it could have an impact on productivity and that the 3% retroactive to July would be a small price to pay for increased productivity and the work that these folks do.

Purcell said he was not clear on the motion; originally Council discussed either a 3% pay raise beginning July 1 or the new pay plan, and the new pay plan was passed, which in the future will cost a lot more than the 3%. He asked if the motion was to leave the new pay plan in place but make the new pay plan effective July 1. Beller said the first pay period in July. Purcell said he did not see where the money would come from and that should be discussed before voting. Williams asked if sales tax revenues were up. Baker said we do not have the \$250,000; it was not budgeted; revenues have been favorable this year and we are ahead of projections but only half of the year is finished and the second half could be disastrous.

Baker said any excess revenue generated this year goes to support next year's budget because you add whatever carry over there is to the projected revenue for next year and that funds next year's budget. Baker said almost everything goes up in a budget and the less carry over you have, the more revenue you have to generate next year which means you could be looking at the possibility of some type of utility increase or generating additional revenue; it is too early in the year to say we have excess funds and to commit to a \$250,000 expenditure that is not budgeted. Baker urged Council to think about that before voting on this.

Purcell said he had seen in other cities that at the end of the fiscal year, if there are enough funds, you can give a stipend or an amount equal to 3% retroactive. He asked if that could be done here. Vincent said providing a one-time salary adjustment is permitted. Williams asked if roll ups would come into play in that situation. Vincent said yes. Williams said there should be a way to provide an incentive without impacting the roll up costs. Vincent said the money would be considered wages under the law so the FICA would be required.

Beller asked if it is a situation where we do not want to say we have the money because of possible legal entanglements if we tell general employees we will try to find the money. Shanklin said he did not mind paying it if we exceed what we were expecting as far as carry over.

SUBSTITUTE MOTION by Shanklin, SECOND by Purcell, to make the payment at the end of the year if we exceed what we were expecting as far as carry over as defined in the budget.

Devine asked why we were trying to shuffle these people around. Shanklin said we are not and that he was not running for office and that he could see those who were campaigning. Devine said he was not. Shanklin said the employees were given a good raise and they did not complain, and he would like to give them \$250,000, but it cannot be done right now.

Smith said it was his understanding when the pay plan was enacted that it would be either a 3% retroactive raise or the new pay plan, and the employees wanted the new pay plan. He said the Council did what they wanted the first time, but now that is not enough and it has to be more. Smith said he respected the employees and the work they do but that was his recollection.

Williams said the last employee who spoke suggested an alternative for a raise to take place in the future. Crisp said the suggestion was for 2-1/2% in March, or in that area. Devine asked if that was acceptable to the employees. Crisp said it was his understanding that they would not have a problem with it because they knew it would be expensive to have it retroactive to July 1 due to the number of employees, but they already lost six months and if they could be paid 2-1/2% more beginning in March, it could give the City Manager and Council adequate time to come up with funding. Mayor Powell asked if the suggestion was to keep the pay plan in effect as it is now and add 2-1/2% in March. Crisp said yes. Devine asked what the cost of such a proposal would be approximately. Baker said \$250,000 is the cost to make it retroactive to July 1, which is a six month period, and if it was done the first pay period in March, it would be for four months so it would be 2/3rds of \$250,000, or probably \$160,000 to \$175,000. Devine said he wanted what was best for the City as well as the employees. Baker said the alternative would obviously be better, although he did not have \$175,00 either.

Haywood said he was running for office but that he was not playing politics now. He said he understood the general employees' feeling that they did not receive what the other employee groups would receive and that was not right. Haywood said he was with the City Manager in Houston and he was working on the pay plan and raise back then, and was trying to find the best thing for the employees. He said he was pro union and was a member of a union but that he had talked to his constituents who agreed it was not right to make a difference between the employee groups. Haywood said he could support the 2-1/2% increase in March and that he would support the general employees who are on the firing line every day.

Devine asked if the employees would rather wait until the end of the year and see if the 3% could be funded or to take the 2-1/2% in March. Crisp asked if the new pay plan would stay in place and Mayor Powell said yes. Crisp asked about the 3% and Shanklin said it would be considered at the end of the fiscal year. Purcell said the 3% is what would have been given in retroactive pay at the end of the year with a 3% one-time increase. Mayor Powell said it would be one time and one time only. An employee asked if the 3% was guaranteed and Mayor Powell said it would be based on surplus. Crisp said the employees would prefer the 2-1/2% in March. Mayor Powell said he had been advised that he could not accept another substitute motion. Shanklin and Purcell withdrew the substitute motion.

SUBSTITUTE MOTION by Devine, SECOND by Haywood, that they get a 2-1/2% raise as of the first pay period in March and keep the pay plan in place as it is now.

Shanklin said everyone should understand that this will carry over to the next fiscal year as well.

VOTE ON SUBSTITUTE MOTION: AYE: Shanklin, Beller, Haywood, Smith, Williams, Devine, Purcell. NAY: Warren.
SUBSTITUTE MOTION CARRIED.

Leatherwood expressed appreciation on behalf of the EAC and general employees for the Council working with them on this pay issue.

4. Consider approving a Nonexclusive Agreement for a Cable Television Franchise between Lawton Cablevision, Inc. and

the City of Lawton. Exhibits: None.

Vincent said the ordinance was recently passed and the vote will take place on February 8; the ordinance requires that the City enter into a contract prior to the vote of the people and the contract is contingent upon the people voting in the franchise agreement. He said the contract mirrors the ordinance requirement.

Beller asked who controls the ballot on this matter. Vincent said the ballot title was approved by Council and has been submitted and accepted, and it is not in question, and the action of the judge this afternoon did not affect this, and any action on January 24th will not affect this.

MOVED by Beller, SECOND by Haywood, to approve the non-exclusive agreement with Lawton Cablevision, Inc. AYE: Beller, Haywood, Warren, Williams, Devine, Purcell, Shanklin. NAY: None. OUT: Smith. MOTION CARRIED.

5. Consider approving the construction and the location of a pavilion and a restroom at Elmer Thomas Park as part of the Parkway Enhancement Project. Exhibits: Site Map.

Gary Salva, Parks & Recreation Director, said the parkway in Elmer Thomas Park is nearing completion and many people are using it already. He said he met with Mike Brown in December and learned that the project was coming in under budget with about \$60,000 remaining. The Parkway Task Force would like for the money to be used to create a pavilion and restroom, and they have recommended a site for those improvements on the North side of Elmer Thomas Park near the existing trail head of the walking path where there is access to water and sewer and it is near a parking lot. The Parks & Recreation Commission considered this in a special meeting last night and by unanimous vote they recommended the Council approve, if funds are available and official confirmation has not yet been received from ODOT but it is anticipated, the Parkway Task Force working with the Engineering Department and ODOT to meet the construction and design specifications to complete the project.

Salva said RFP's for the Master Plan for Elmer Thomas Park are being prepared but if this project were to be held up waiting for the Master Plan, there would be a chance of losing ODOT funding. He said the staff does not believe this project will have any negative impact on the park. Salva said Commission members and Mr. Brown are present to answer questions.

Shanklin asked Mike Brown how much money would be available for a pavilion and restroom. Mike Brown said they think about \$60,000; the parkway budget was \$400,000 and it should come in at about \$340,000. Shanklin asked if \$60,000 was enough to do this and Brown said it would go quite a way and that the Parkway Task Force also had some funds available if needed. Shanklin said the restroom at the lake was going to be very expensive because it had to be "bulletproof" so to speak, and this one may need to be similar and he wanted to be sure there was enough money. Brown said the action they needed tonight was for site approval, and the project has not been designed yet and they understand what the budget is and they will try to beat that.

MOVED by Shanklin, SECOND by Devine, to approve the site. AYE: Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

6. Consider a motion expressing Council's intent to repeal Ordinance 99-42 if voters choose the City's last best offer to the Fire Union and also approve Ordinance 99-42 which increases the sales tax rate. Exhibits: None.

Mayor Powell said he requested this item to express to the people in the community that should the first be defeated and the sales tax pass, in no way will we keep that money and the ordinance will be rescinded and we will not accept blind money by misleading our people in the community in any manner whatsoever. He asked if there was the Council's blessings on this and response was yes. Vincent said a formal vote could be taken if desired, although it would not rescind the ordinance at this point.

MOVED by Purcell, SECOND by Devine, that if, for some unbelievable reason, the people would vote for the City's position and then vote to give themselves a sales tax, in that case we would immediately repeal that action.

Mayor Powell said the reason he brought this up was that it was in the paper that this could happen and there is a cloud on this so he wanted to clarify with the people on this issue.

VOTE ON MOTION: AYE: Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

7. Consider authorizing the City Staff to negotiate a cost-sharing agreement with the Veterans Administration for construction of approximately 2,700 linear feet of 24-inch water line. Exhibits: Location Map.

Jerry Ihler, Public Works Director, said as they were reviewing plans for the VA Center that is to be located at the SW corner of Flower Mound Road and Gore Boulevard. Plans indicated that VA would construct a 12" line on the west side of Flower Mound Road from Gore Boulevard south to about the half mile marker. Ihler said Proposition 2 in the recently approved CIP was for purchase of right of way and land for the Southeast Plant and transmission lines; we will be laying transmission lines, if the next CIP in 2005 is approved, so the recommendation is to allow staff to negotiate with the VA to put in that 24" line now in front of their property for about half a mile and the City pay the difference between the 24" and

the 12" line, which would be a cost savings for the City in five years when we come to install the 24" line. In addition, we would be asking for a 25' easement which will be a part of this negotiation.

MOVED by Purcell, SECOND by Devine, to authorize the City staff to negotiate a cost sharing agreement with the Veterans Administration for the construction of approximately 2,700 linear feet of 24" water line.

Shanklin asked if we are counting on the Southeast Water Treatment Plant being on line in eight years. Ihler said yes, in this CIP we have the money to do the design for the Southeast Plant, and hopefully we would be going out in the 2005 CIP to begin construction of that Southeast Plant. Shanklin asked if that would cost about \$40 million for the plant and pipe. Ihler said the numbers in the report were about \$30 million when you include the transmission line. Shanklin said that will be \$30 million to sell \$1 million worth of water and how long it will take to pay off the interest.

VOTE ON MOTION: AYE: Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

8. Consider directing staff to study methods to improve safety at the intersection of NW 40th and Cache Road, to include the possibility of constructing a concrete divider to prevent traffic accidents. Exhibits: Aerial Photograph.

Warren said he was asking that Council agree to direct staff to come up with a plan that will provide a little bit more safety for this intersection. He said for years there have been problems with wrecks and many times the vehicles end up in the Circle K parking lot by the gas pumps. Warren suggested a concrete addition to the median which would preclude north/south travel on 40th Street; traffic traveling north on 40th could only make a right hand turn; traffic traveling south on 40th could only make a right hand turn; it would not change the traffic flow east and west at all and traffic could still turn right and left and make a U turn at that intersection, but it would preclude north/south travel. Mayor Powell asked if it would be a divider where there would be no intersection and Warren said yes.

Williams asked if there had been a lot of wrecks. Warren said that would be part of what staff would determine but from his personal experience he lived two blocks from there and it was taking your life in your hands at that intersection. Williams said it could make access to that grocery store difficult.

Devine said an improvement at this intersection could worsen already existing problems at the intersection by Golden Corral and at 38th Street, and that a traffic light is almost needed. Warren said he agreed to an extent but traffic coming north on 40th would have to go to 38th and make a U turn, but it would be at a traffic light controlled intersection, so the only problem would be in front of Golden Corral and a No U Turn sign may be needed there if that is truly a problem. Warren said he hoped staff would look at things such as that in forwarding a recommendation. Mayor Powell asked if Warren was simply asking for a staff study and Warren said yes.

MOVED by Warren, SECOND by Williams, to direct the City Manager to have staff bring back a recommendation on the problem with traffic at that intersection. AYE: Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

9. Consider Amendment No. 2 to the Cost Sharing of Construction of Waterline Agreement with the City of Geronimo, which extends the contract deadline period to May 14, 2000. Exhibits: Amendment No. 2.

Vincent said the current agreement with Geronimo expires January 14, and Geronimo's attorney, Gerald Neuwirth, has forwarded a request to extend the contract to May 14, 2000.

Williams said he would like to see the line put in and the water sales begin to benefit both entities.

MOVED by Shanklin, SECOND by Haywood, to approve the extension.

Purcell suggested extending the contract until December 31, 2000, so it does not have to be brought back up if there are problems.

SUBSTITUTE MOTION by Purcell, SECOND by Devine, to approve this amendment and make it by December 31, 2000. AYE: Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. SUBSTITUTE MOTION CARRIED.

10. Consider an ordinance relating to coin operated devices amending Article 18, Section 18-2-1811, Chapter 7, Lawton City Code, 1995, to establish a date for license renewal and expiration, and fee change; and adding Article 18, Section 18-2-1816, establishing the penalty for failure to pay the revenue license fee; providing for severability and establishing an effective date. Exhibits: Ordinance No. 00-____.

Devine suggested the permit fees be pro rated on a quarterly basis. He said \$20 per machine does not sound like much unless you have 500 machines and it then becomes costly. Vincent said the proposed change is to pro rate for half of the year but making it quarterly could be done.

MOVED by Devine, SECOND by Smith, to table the ordinance and bring it back at the next meeting to allow pro rating on a quarterly basis. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams, Devine. NAY: None. MOTION CARRIED.

11. Consider adopting an ordinance amending Section 7-1302, Chapter 7, Lawton City Code, 1995, amending the definition of Adult Bookstore, Adult Novelty Store, or Adult Video Store. Exhibits: Ordinance No. 00-_____.

Warren said this is not a request for a complete overhaul of the ordinance but simply a change from 10% to 35% on the amount of floor space and sales allowable within a business before it is considered an adult business. He said he got involved in this at the request of a business owner and they will have to close down and move due to an ordinance passed five years ago on adult businesses; it was initially put on the books as a method to clean up some massage parlors and strip clubs and that has been accomplished. Warren said we have no complaints from the two establishments involved, Ingrid's and Christie's, and they were grandfathered in until March 2000, at which time they must move. He said if this is not changed, it was his understanding that Christie's would move outside the City limits. Warren said he hated to lose the revenue; the availability of the products will be the same. He said it is a clean business, there are no complaints, the Police Department is not called out there, and they operate a normal business like anyone else and no one is forced to look at something they do not want to see.

Williams asked if that would open a window for anyone else we might not want in business in these areas. Warren said his answer would be no more so that the 10% allows now. Mayor Powell said there is a lot of difference between 10% and 35%. Warren said they went with 35% at the businesses request to be able to stay in their present locations.

Purcell said he had a problem trying to do something for one business only. He asked if the 35% rule is passed and a person opens a bar in a location we are trying to avoid, can 35% of the floor space in the middle be a strip joint under this rule. Vincent said no, this proposal deals with adult video or bookstores only. Purcell asked if a bookstore had old books and magazines in 65%, but in the middle in one area, 35% of it is what we are trying to get rid of, would that be allowable. Vincent said yes. Purcell said he had a problem with that and Mayor Powell agreed.

Beller said this afternoon he went to one of these stores and talked with the manager, and they were willing to remove some of the things. He said when he entered the store he thought he was in a Victoria's Secret store like the one in the Central Mall with ladies lingerie, or the Spencer's Store in Crossroads Mall in Oklahoma City. Beller said he had been in the Christies Store in Oklahoma City before when his son was thinking of entering that business years ago and he visited it to see what it was, and he personally was not interested in putting his money into that type of business. He said the local store has been in business for almost eight years and it is not a trouble spot and it is not giving the community a bad name. Beller said its not a peep show and it does not have unsavory clients going in and out, and this afternoon he saw customers that were as respectable as this group sitting around the table. He said he sat outside and saw the lady at the door ask a girl to go back to the car and get her ID which shows they are policing it and adhering to the code and enforcement of that portion of it. Beller said it is not something that everyone would go to, and he personally would probably never spend any money there, but the point is that it is a legitimate business and we need legitimate businesses in Lawton.

Beller said the Lerner's Store in the Mall is closing and going out of business; McDonald's is also closing, as well as a leather store; there are two other empty stores by Radio Shack, and an empty store by the Sears entrance, the cafeteria is closed, as well as the Eckerd's Store in the Mall. He said the point is that Lawton needs businesses and to him, this is a legitimate business although many do not approve of it and those people would not go there. Beller said he thought raising the limit to 35% could help a business stay.

Smith said he compared this to drinking and that he did not drink but did not feel that gave him the right to tell other people they could not do so. He said legislating morality was not the Council's job. Smith said he had never been in either location but had never received any complaints or seen police cars at either of these businesses, and this was not an unreasonable request to help a local business.

Shirley Pace, licensed professional counselor, registered play therapist and certified child psychotherapist, said she worked with the victims. She said you do not see the victims; they do not go into the store; they do not ask to be victimized but they exist. Pace said the average number of victims per pedophile is in excess of 360, although not all have 360 and some have 1,000; how many pedophiles do you want to feed information to. She said that is emotional and knew the Council did not want emotional information; however, every victim is someone's child, sister, wife or mother, and it is usually a woman but not always and that men are victimized sexually also.

Pace said the Council is interested in what happens in the community and there are three things that have been found to happen and one is an increase in crime; one is a decline in property values and one is an increase and spread of sexually transmitted diseases. She described a disease for which there was no symptom for 12 years and no treatment but it causes cancer. Pace said regarding an increase in crime, Garden Grove, California, found that crime increased significantly with the opening of an adult business or with the expansion of existing businesses or the addition of a bar nearby; the rise was greatest in crimes such as homicide rape, robbery and assault. She said on Garden Grove Boulevard, the seven sexually oriented businesses accounted for 36% of all crime in the area. Pace said in Austin, Texas, they found that sexually related crime ranged from 177% to 482% higher in the four study areas; in the two study areas containing two sexually oriented businesses, the rate was 66% higher than in the study area of one such business.

Pace said regarding decline in property values, in Indianapolis, Indiana, they found that in six control areas where the businesses were that property values declined significantly but also in the city as a whole. She said she had information she would make available for the members to read and that she was registering her complaint for Council's information

Warren said in the time he spent at that business, there were two gentlemen there and the rest of the patrons were women, which surprised him. He said this is a normal business and whether or not there are pedophiles here, he had no idea and did not think there was any more of a chance of them being at the business than there was of them being at the Lawton Public Library or anywhere else. Warren said a business selling lingerie or sexual items would not make that happen, and the question is whether to continue to allow 10% or increase it to 35%. He said there is no alcohol involved and this is not a bar or massage parlor. Mayor Powell asked what was there. Warren said they sell gag gifts, novelties, leather goods, lingerie and a small section of adult magazines such as those that can be purchased at convenience stores. Mayor Powell said such magazines would never be sold in his convenience store and Warren agreed that was the Mayor's right.

Shanklin asked Ms. Pace if she was for or against this. Pace said she was against the expansion of it. Pace said if there are people who wish to buy this, give them 10% but when you expand it, you are going to have a consequence and the City will receive a sales tax revenue but the City will pay dearly and will have to hire more policemen, more juvenile workers, more jail space.

Vincent said an adult bookstore or novelty store can have those items as 100% of their merchandise; the 10% rule says that you become the adult business and have to have the adult business license at a specific location if you have more than 10%, and if you have less than 10%, you do not need the license today. He said in the right location with an adult business license, they could have 100% of their merchandise as adult material so you are just adjusting the threshold as to where it kicks in.

Devine asked if Council does not pass this with 35% that the place in the Mall can sell these same products as long as it is not more than 10%. Vincent said yes. Devine said it seemed to just be eliminating revenue or moving it to other stores. Vincent said he was not speaking for or against it. Devine said he was trying to understand if this would mean taking it from a controlled location where we know of two and spreading it out anywhere in town. Vincent said if they do not exceed 35% they would be allowed to go in any of the properly zoned areas for commercial business. Williams asked if C-5 was required. Vincent said he thought it could be C-4 or C-5. Mayor Powell said it is increasing it from 10% to 35%.

MOVED by Warren, SECOND by Smith, to adopt an ordinance amending Section 7-1302, Chapter 7, Lawton City Code 1995, amending the definition of adult bookstore, adult novelty store or adult video store.

Bobby J. Morris, 1901 NW Kinyon Avenue, said it was a battle to get the ordinance passed to control the massage parlors and adult bookstores. He said these people have had five years to comply with the ordinance or to move and they have not done that, but now they want the community to bend over and let them stay where they are and increase their business, which is not right. He said he was not against people exercising their rights but they could do it in another place and not in his neighborhood. Morris said if this is changed, they could be next door to a church, library, day care center or in your front yard and that is not what he wanted. He asked that the Council stay with what is in place and keep them out of the neighborhood and not give in to someone pleading on your sympathy. Morris said the neighborhood associations should be given a chance to speak on this, as well as the church people and civic organizations, and not vote on it tonight. He said he thought many would speak out against it if they knew about it.

Purcell said we are trying to help a business without opening Pandora's Box. He asked if there was a way the Council could do something to help this business, which obviously has not been a problem and is in a location that does not seem to be a problem. Vincent said it cannot be made specific for the only two existing businesses because specific legislation is prohibited by the Oklahoma Constitution. Vincent said he could give it further thought.

SUBSTITUTE MOTION by Purcell, SECOND by Haywood, to table this until the next meeting and the City Attorney can come back and tell us if there is a way to get what we want. AYE: Shanklin, Haywood, Williams, Devine, Purcell. NAY: Beller, Warren, Smith. SUBSTITUTE MOTION CARRIED.

Beller asked when this was tabled to and Vincent said the next meeting. Williams asked if that was enough time and Vincent said he did not know but he could at least give a report at the next meeting. Vincent said for the two businesses concerned, they will either have to relocate or be closed by March 1.

12. Consider an ordinance amending Section 22-225C of Chapter 22, Lawton City Code, 1995, which corrects a typographical error that occurred between the adoption of the ordinance and the 1985 code definition. Exhibits: Ordinance No. 00-1.

MOVED by Smith, SECOND by Haywood, to approve Ordinance No. 00-1, waive reading of the ordinance, read the title only.

(Title read by Clerk) Ordinance No. 00-1

An ordinance amending Article 2, Chapter 22, Lawton City Code, 1995, Section 22-2-225C, establishing a procedure for equitable distribution of costs for construction of water main extensions by developers and the City of Lawton; and providing for severability.

VOTE ON MOTION: AYE: Beller, Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

13. Consider approving a resolution calling and setting a date for a recall election to fill the office held by the Ward Two incumbent in accordance with procedures set out in the Lawton City Charter, Article 7; providing for qualifications of candidates; providing for a filing period; provide for nonpartisan election; provide for residency requirements of registered voters; direct that a copy of the resolution be forwarded to the Secretary of the Comanche County Election Board and the resolution be published in full in a newspaper of general circulation within the City. Exhibits: Resolution No. 00-1.

MOVED by Beller, SECOND by Purcell, to approve Resolution No. 00-1.

Beller said the Council has no options in this matter as the Charter states this will be done.

VOTE ON MOTION: AYE: Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 00-1

A resolution of the Council of the City of Lawton, Oklahoma, calling for and setting the date for a recall election to fill the office held by the incumbent of Ward Two in accordance with the procedure set out in the Lawton City Charter, Article 7; providing for qualifications of candidates; providing for a filing period; providing for nonpartisan election; providing for residency requirements of registered voters; directing that a copy of this resolution be forwarded to the Secretary of the Comanche County Election Board as required by State law; and directing that this resolution be published in full in a newspaper of general circulation within the City.

ADDENDUM: 1. Consider a resolution changing the name of NE Bell and NE Nebraska Avenues in Vernon Addition to Dr. Louis K. Jones Avenue. Exhibits: Letter of Request; Location Map; Resolution No. 00-2.

Haywood said Dr. Louis K. Jones had been a minister for 32 years at Galilee Baptist Church when he passed away. He said Dr. Jones' son is a principal at Tomlinson and his granddaughter is a principal at Lawton High School. Haywood said Galilee Baptist Church has requested this name change. Warren asked if these streets are in a U configuration and Haywood said yes.

MOVED by Haywood, SECOND by Warren, to adopt Resolution No. 00-2 renaming NE Bell and NE Nebraska Avenue in Vernon Addition to Dr. Louis K. Jones Avenue.

Shanklin asked if this is on the east side of the railroad. Haywood said it would start at Railroad and Bell and go around to Gore.

VOTE ON MOTION: AYE: Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 00-2

A resolution renaming NE Bell Avenue and NE Nebraska Avenue in Vernon Addition to Dr. Louis K. Jones Avenue.

CONSENT AGENDA:

14. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: Nathan J. and Melody R. Bernheiser; Carmen M. Colbert; Barbara Curran; John W. and Helen R. Drennon; Loyal and Chlorica Farmer; Willie and Ora Fitzgerald; Francis and Donna Gorman; and Virgil T. and Sheila A. McVicker. Exhibits: Legal Opinions/Recommendations. (Resolution Nos. 00-3, 00-4 and 00-5 on file in City Clerk's Office) Approved as follows: Bernheiser \$45.00; Curran \$150.00; Farmer \$150.00; Fitzgerald \$183.26; Gorman \$62.50.

(Title only) Resolution No. 00-3

A resolution authorizing and directing the City Attorney to assist Carmen M. Colbert in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Four Hundred Forty-Nine and 81/100 Dollars (\$449.81).

(Title only) Resolution No. 00-4

A resolution authorizing and directing the City Attorney to assist John W. and Helen R. Drennon in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Nine Hundred Eighty-Four and 60/100 Dollars (\$984.69).

(Title only) Resolution No. 00-5

A resolution authorizing and directing the City Attorney to assist Virgil T. and Sheila A. McVicker in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Nine Hundred Ninety-Six and 71/100 Dollars (\$1,996.71).

ITEMS 15 AND 16 CONSIDERED SEPARATELY AS SHOWN BELOW.

17. Consider adopting a street light to authorize installation of an additional street light. Exhibits: Street Light Resolution No. 411. Action: Approval of item to install light at 12th and Baldwin.

18. Consider approval of a Mutual Assistance Agreement between the City of Lawton and the Board of County Commissioners of the County of Comanche, State of Oklahoma. Exhibits: Agreement. Action: Approval of agreement.

19. Consider the sale of City of Lawton equipment/property to Comanche County in consideration for the sum of \$1.00. Exhibits: Bill of Sale; Letter of Request to City Manager; City Attorney Opinion; Letter from Fire Chief Herman Fehring, Edgewater Park. Action: Approval of item.

20. Consider adopting a resolution authorizing the Mayor to execute the NPDES discharge permit with the Oklahoma Department of Environmental Quality (ODEQ) Permitting Section to request revocation of the current permit and reissuance of a new permit with a new design flow of 18 mgd. Exhibits: 10/22/99 ODEQ Letter; Resolution No. 00-6. (Application on file in Public Works Administration)

(Title only) Resolution No. 00-6

A resolution whereby the City Council of Lawton, Oklahoma, authorizes the execution of Permit No. OK0035246 with the Oklahoma Department of Environmental Quality (ODEQ) for the discharge of municipal/domestic wastewater from the City of Lawton Wastewater Treatment Plant.

21. Consider acknowledging receipt of permits for the construction of a wastewater treatment lagoon system (two 1.09-acre cells) and appurtenances and 6,300 linear feet of three (3) inch force main plus one sewage pumping station (55-gpm capacity) and appurtenances to serve the Robinson's Landing Lift Station Project #2000-6, City of Lawton, Comanche County, Oklahoma. Exhibits: Location Map. Action: Acknowledge receipt of permits.

22. Consider acknowledging receipt of permits from the Oklahoma State Department of Environmental Quality for the construction of sanitary sewer and water lines with appurtenances to serve Kingsbriar Addition, Part 4. Exhibits: None. Action: Acknowledge receipt of permits.

23. Consider approving the record plat for Brentwood Addition, Part 2B, and accepting the improvements, maintenance bonds, and temporary and permanent easements. Exhibits: Plat Map. (Maintenance Bonds and Easements on file in City Clerk's Office) Action: Approval of item.

24. Consider approving plans and specifications for the Town Hall Re-Roofing Project #2000-1, and authorizing staff to advertise for bids. Exhibits: Location Map. Action: Approval of item.

25. Consider approving a Release of Mortgage on residential properties belonging to Carney D. Loveless of Lawton, Oklahoma, and authorize execution of the Release of Mortgage. Exhibits: None. (Mortgage, Release & Receipt on file in City Clerk's Office) Action: Approval of item.

26. Consider entering into contracts with Mr. Mike Humble and Mr. Max Seibold for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contracts. Exhibits: None. Action: Approval of item.

27. Consider approving contract for the Cosponsorship Program. Exhibits: None. Action: Approval of item for contract with Omega Workshop for \$600 to present the Etcetera String Band in for school performances and one public performance.

28. Consider authorizing the Mayor and City Clerk to execute the Annual Certification of Army Material Status for the M101A1 Howitzer provided by the United States Army to the City of Lawton for display. Exhibits: Annual Certification. Action: Approval of item.

29. Consider approving federal and state applications for universal service to make the Library eligible for discounted telecommunication rates and authorize the Mayor to sign any necessary contracts. Exhibits: None. Action: Approval of item.

30. Consider adopting a resolution authorizing the City Clerk to dispose of certain original records which have been reproduced on microfilm. Exhibits: Resolution No. 00-7 with Affidavit.

(Title only) Resolution No. 00-7

A resolution authorizing the City Clerk to dispose of certain original records which are kept by the City Clerk which have been accurately reproduced and perpetuated on film in all detail, such records being as follows: expired contracts; nuisance files; board minutes and meeting notices; and miscellaneous correspondence.

31. Consider approving the following contract extensions: A) Oils, Greases & Lubricants with Equilon Lubricants f/k/a Texaco; B) Biomonitoring Testing with Stover & Associates, Inc.; C) Laboratory Services of Toxic Pollutants with Accurate Labs; D) Tennis Court Paint with BSN Sports; E) Jogging Track Material with Red Dog Track, Inc.; F) Pea Gravel with City Concrete, Inc.; G) Powdered Activated Carbon with Van Waters & Rogers, Inc. Exhibits: None. Action: Approval of item.

32. Consider awarding contract for Bunker Clothing. Exhibits: Recommendation; Abstract. Action: Award contract to Morning Pride Manufacturing, L.L.C. d/b/a Total Fire Group.

33. Consider awarding contract for Wrecker Service. Exhibits: Recommendation; Abstract. Action: Award contract to Alford's Truck & Wrecker Service.

34. Consider awarding contract for Police Footwear. Exhibits: Recommendation; Abstract. Action: Award contract to U.S. Calvary.

35. Consider rejecting bids for Police Uniforms & Accessories. Exhibits: Rec.; Abstract. Action: Reject bids.

ITEM 36 CONSIDERED SEPARATELY AS SHOWN BELOW.

37. Consider approval of payroll for the period of January 10 through 23, 2000. Exhibits: None.

Vincent asked for separate consideration of Items 15 and 16; Purcell asked for separate consideration of Item 36.

MOVED by Warren, SECOND by Smith, to approve the Consent Agenda items as recommended with the exception of Items 15, 15 and 36. AYE: Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

15. Consider the following damage claims recommended for denial: Nita and Tony Gonzalez and Glenda Garcia. Exhibits: Legal Opinions/Recommendations. Action: Denial of claims.

Vincent suggested denial of the Gonzalez claim at this time and then allow Ms. Garcia to speak regarding her claim.

MOVED by Purcell, SECOND by Warren, to deny the Gonzalez claim. AYE: Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

Glenda Garcia, 4816 NW Lindy, said on November 21 she was going into the Wayne Gilley Park on 50th and Cheyenne and when she pulled into the parking area of the park, her front tire went into the ditch drainage area as she was pulling in and it damaged her vehicle. She said on the date she damaged her vehicle in the park, there was no paint on or around the drainage area but a week or so afterwards, the City had put fluorescent spray paint to make it more visible. Garcia said she had pictures. Pictures were presented by Ms. Garcia and by the City Attorney's Office. Vincent said his office notified Parks & Recreation that a claim was filed and Parks & Recreation painted the end of the culvert.

Beller asked if Ms. Garcia had insurance to cover the damage. Garcia said she has insurance and it would pay but it would raise her insurance premium and she would lose her defensive driving discount that she had received for over ten years. Purcell asked the amount of deductible and Garcia said \$250. Haywood asked that Ms. Garcia state her occupation and Garcia said she was a Lawton Public Schools bus driver and had been doing so for over ten years and never had an at-fault accident and had good defensive driving and an excellent driving record.

Smith asked how many times Ms. Garcia had parked in that parking spot and used the park. Garcia said that was the first time in that vehicle; she had just got the vehicle in July and previously had a van and had pulled in with the van but this was the first time she had pulled in with the 1999 Pontiac Grand Am that was damaged. Garcia said the grass where she pulled in was higher on the day this happened and it looked like it was just grass and she could not see it was a hole. Garcia said the front left tire fell down into the hole and the front end of her car, which had a spoiler on the front of it, hit and scraped and was damaged and it also buckled the left front fender when the tire went down into the hole.

Shanklin asked if we went out and sprayed it ourselves afterward. Vincent said the Parks & Recreation Department did. Shanklin asked why it was sprayed instead of being fixed. Vincent said the driveway is over 24 feet wide and no defect was found in the driveway itself. Shanklin said the driveway is as wide as the tin horn. Vincent said he understood staff painted the end of the tin horn and that the City had not received notice of a defect previously.

Purcell asked the width of the driveway and Vincent said 24 feet. Purcell asked why Ms. Garcia did not drive within that 24 feet instead of over to the side, and if a car was coming from the other direction that forced her to the left or right causing her to run off the edge. Garcia said she was on Cheyenne traveling west and was going to turn into the gravel parking area and that she turned in at an angle, rather than straight, because of the hump or speed bump type thing over the drainage thinking that could have caused damage to her car so she went at an angle.

Shanklin said there is not a hole in the pipe but to the outside of the pipe. Garcia said the pipe extends longer then there is a hole on the side of the pipe. Mayor Powell said it is a drainage pipe. Garcia said kids could be walking or running and fall into that also. Garcia said the drainage pipe extended longer than the driveway. Warren asked if the damage was on the left or right side and Garcia said the drivers' left side. Garcia said when this happened there was no painting or markings of any kind when this happened then within about a week there was orange paint all over it.

Williams asked if Garcia cut across or drove toward the end of the pipe so her car would not go over the bump. Garcia said yes, she went in at an angle over an area that was covered with grass and she assumed there was ground underneath it but it was a large, deep hole.

Warren said we painted it orange because we learned of a possible problem and wanted to make sure the same thing did not happen again. He said the left front of the car went off what would be the left side of the drive, meaning she was

actually on the side of the drive where on-coming traffic would be if someone were trying to come out.

MOVED by Warren, SECOND by Smith, to deny the claim.

Smith said if Council votes to deny the claim, Ms. Garcia can take the matter to District Court.

Beller said Ms. Garcia's profession is a driver and if there was negligence on the part of both parties, which there appeared to be, that he hated to see her record blemished by virtue of the fact that the City possibly could have kept it from happening. Beller said he realized the part about the City having to be made aware of a potential problem but if our employees cut grass there, something could have been done at either end of the pipe to show the end of it.

SUBSTITUTE MOTION by Beller, SECOND by Haywood, to approve the claim for \$1,213.40.

Shanklin asked if we know if her left front tire went off the edge of the pipe. Purcell said if there is a 24' wide pipe, there is the opportunity to drive across it, even coming in at an angle.

Garcia said if there was not a problem, why did someone go out and paint the area to mark it. Hedy Jackson, Assistant City Attorney, said the City Attorney's Office did not tell anyone to do that and she did not know the reason it was done but logically if it is eliminated then that gives people more notice that there might be a problem there. Jackson said in a court, subsequent remedial measures, which is what the spray paint is, are not admissible.

Vincent said the answer to Shanklin's question is that all of the damages were on the left front side of the vehicle. Shanklin asked if she hit the pipe itself with the left front tire. Garcia said no, she did not.

VOTE ON SUBSTITUTE MOTION: AYE: Beller, Haywood. NAY: Devine, Purcell, Shanklin, Warren, Smith, Williams. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams, Devine. NAY: None. MOTION CARRIED.

16. Consider adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers' Compensation case of Aaron B. Green in the Workers' Compensation Court, Case No. 99-3395-Y. Exhibits: Resolution No. 00-8.

Vincent said the actual amount awarded by the Workers' Comp court, after credits and deductions, is \$12,398.61; the total judgment was for \$13,887.60 but the City did receive certain credits and the resolution has been revised accordingly. He recommended approval of the resolution as revised.

MOVED by Smith, SECOND by Warren, to approve Resolution No. 00-8 as revised. AYE: Shanklin, Beller, Haywood, Warren, Smith, Williams, Devine, Purcell. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 00-8

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation case of Aaron B. Green for the amount of Twelve Thousand Three Hundred Ninety-Eight and 61/100 Dollars (\$12,398.61), per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for purposes of placing said judgment on the tax rolls.

36. Consider approval of appointments to boards and commissions. Exhibits: Memorandum.

Municipal Planning Commission: E. R. (Red) Kirby, Term: 1/11/2000 to 1/11/2003 (Mayor's appointment); Alvis Kennedy, Term: 1/11/2000 to 1/22/2002, Ward 5 appointment; Doris Fuller, Term: 1/11/2000 to 1/11/2001, Ward 7 appointment. Parks & Recreation Commission: Thomas A. Dell, Term: 1/11/2000 to 1/11/2002, Ward 4 appointment. Lawton Metropolitan Area Planning Commission: Jim Nesbitt, Term: 1/11/2000 to 4/30/2000.

Purcell said the Parks & Recreation Commission member's last name should be Bell instead of Dell.

MOVED by Purcell, SECOND by Williams, to approve Item 36 with that correction. AYE: Beller, Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Williams said he had distribution information from the Oklahoma Municipal League Legislative Committee meeting held earlier this week.

Baker said the first separate Water Authority meeting would be held the first Tuesday in February. He said CH2M Hill will provide a briefing at that meeting on their study and report on the operation of the City dams. Vincent said he would

prepare an item for rules of procedure for the Water Authority.

Haywood said a breakfast would be held on January 14 at 7 a.m. at St. John's Church and in conjunction with Lawton Public Schools and that night at McMahon Auditorium there will be a Dr. Martin Luther King program as well. He said on January 17 at the Worley Center at Vo Tech there would be another program and everyone is invited.

Shanklin asked if the Country Club's concerns had been addressed regarding Meadowbrook drainage. Devine said yes. Mayor Powell said a meeting was held yesterday afternoon. Shanklin asked if the rest of the members would be made privy to that information and Mayor Powell said yes.

Shanklin said he noticed in an engineer selection letter today that RFP's were sent out for landfill expansion but it does not say who they were sent to. He asked if that is the procedure now being used instead of going to the Engineer Selection Committee. Ihler said he could provide the names of the firms the RFP was sent to and that it was discussed at the meeting.

Shanklin asked about outside water sales. Baker said he was waiting for the auditor to finish the study and that he and the finance director are computing the city's costs and it should be completed by the end of the week and it would then be provided to the Outside Water Committee. Shanklin said the Council should get a copy of it before reading about it in the paper.

Shanklin said he was absent from the last meeting and that he would have voted with Mr. Beller on not giving the former City Manager outside legal services paid by the taxpayers after he held our feet to the fire to the tune of \$75,000 and that he did not feel the City owed the gentleman a penny. Shanklin said the only way that action can be rescinded is for someone who voted for it to bring it back, and he asked that some of the members consider that.

Haywood said on Sunday at Galilee Baptist Church at 2:30 p.m. there will be a field march from Galilee to Bethlehem Church and everyone is invited.

BUSINESS ITEMS:

38. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled International Association of Firefighters, Local 1882, v. The County Election Board for Comanche County, Oklahoma and City of Lawton, Case No. CJ-99-1388, filed in the District Court of Comanche County, and if necessary, take appropriate action in open session. Exhibits: None.

39. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the following pending damage claims against the City of Lawton and if necessary, take appropriate action in open session: Sabine and Jeffery Mowry; Edward "Deral" and Dawn Paulk; and Ha Vu. Exhibits: None.

40. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to conduct a periodic performance evaluation of Brenda Smith as City Clerk, and, in open session, take appropriate action as necessary. Exhibits: None.

MOVED by Williams, SECOND by Purcell, to convene in executive session to consider the items shown on the agenda and recommended by the City Attorney. AYE: Haywood, Warren, Smith, Williams, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:40 p.m. and reconvened in regular, open session at 9:15 p.m. with roll call reflecting all members present.

The City Attorney reported on Item 38 that discussion was held in executive session regarding the referenced suit and that no action is required in open session.

The City Attorney reported on Item 39 that discussion was held in executive session regarding the listed damage claims and that no action is needed at this time.

The City Attorney reported on Item 40 that the Mayor and Council met in executive session to discuss the performance appraisal and possible other actions involving the City Clerk, Brenda Smith. He recommended he be authorized to amend Ms. Smith's contract to allow her to participate in the City sponsored retirement plan and if necessary, come back with a code amendment to allow her to buy back, also to authorize the Mayor and Deputy City Clerk to sign the contract once it has been amended.

MOVED by Smith, SECOND by Warren, to allow the City Clerk to participate in the City sponsored retirement plan and if necessary, come back with a code amendment to allow her to buy back, also to authorize the Mayor and Deputy City Clerk to sign the contract once it has been amended. AYE: Smith, Williams, Devine, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

Williams asked if the members had all been appointed for the Lawton City Planning Commission and if a meeting has been

called. Mayor Powell said appointments are near completion with one remaining vacancy. Vincent said they are attempting to set up a meeting.

Mayor Powell said Bob Bigham and his staff have worked very hard on Census 2000 and that has been recognized at the national level. He said a press conference will be held in his office in the morning with a person from Washington, D.C. and the local media will be involved and it is a feather in our cap that it has been recognized.

There was no further business to consider and the meeting adjourned at 9:20 p.m. upon motion, second and roll call vote.